



FH

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

SSP/148463

PRELIMINARY RECITALS

Pursuant to a petition filed April 01, 2013, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03, to review a decision by the Division of Health Care Access And Accountability in regard to State Supplemental SSI benefits, a hearing was held on April 23, 2013, at Waukesha, Wisconsin.

The issue for determination is whether the agency properly terminated the Petitioner's state SSI supplement.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street
Madison, Wisconsin 53703

By: Melissa Sherry

Division of Health Care Access And Accountability

Madison, WI

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Waukesha County.
2. In February, 2013, the agency was notified by the Social Security Administration (SSA) that the Petitioner was being placed in a non-pay status for SSI benefits effective February 28, 2013.

3. On February 28, 2013, the agency issued a Notice to the Petitioner informing her that her state SSI cash payment would end and her associated Medicaid benefits would end effective March 31, 2013 due to being placed in a non-pay status by the SSA.
4. In April, 2013, the Petitioner applied for Medicaid.
5. On April 1, 2013, the Petitioner filed an appeal with the Division of Hearings and Appeals.

DISCUSSION

Effective January 1, 1996, the State of Wisconsin began sending out its state supplemental SSI payments separately from federal SSI payments (they had previously been sent out as one check by the Social Security Administration). Petitioner was eligible for state supplemental SSI because she received a federal SSI payment. The statute reads, with the basis for petitioner's eligibility italicized, as follows:

49.77 State supplemental payments.

...

(2) ELIGIBILITY. (a) The following persons who meet the resource limitations and the nonfinancial eligibility requirements of the federal supplemental security income program under 42 USC 1381 to 1383d are entitled to receive supplemental payments under this section:

...

2. Any needy person or couple residing in this state and receiving benefits under federal Title XVI.

3. Any needy person or couple residing in this state whose income, after deducting income excludable under federal Title XVI, is less than the combined benefit level available under federal Title XVI and this section, if at least one of the following requirements are met:

a. The person or couple was eligible for a state supplement under this section based on the last federal eligibility determination prior to January 1, 1996, but was not eligible to receive a payment under federal Title XVI on that date.

4. Any essential person.

Wis. Stat., §49.77(2). Petitioner received state supplemental SSI because she was receiving federal SSI (Title XVI). Because her federal SSI has been terminated (a fact that a state administrative law judge cannot change), she cannot qualify for state supplemental SSI pursuant to §49.177(2)(a)2 above or for the SSI-E additional payment. She also does not qualify under any of the other provisions listed, and I could not find any other exception that might allow her to continue to receive the state SSI. Therefore I must conclude that she is not eligible for the state supplemental SSI until and if she again receives federal SSI payments.

CONCLUSIONS OF LAW

The agency properly terminated the Petitioner's state supplemental SSI benefits.

THEREFORE, it is

ORDERED

That the petition be, and hereby is, dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

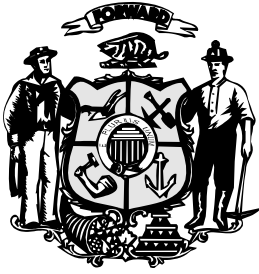
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 21st day of June, 2013

\sDebra Bursinger
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on June 21, 2013.

Division of Health Care Access And Accountability
State SSI